(Spl.-H.C.A.S.,C.D.,78-e)

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF BOMBAY AT GOA
APPELLATE SIDE

CRIMINAL MISC. APPLICATION NO. 128 OF 2004.

Office Note, Office Memoranda of Quorum, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Mr. S.D. Lotlikar, Senior Advocate with Ms. S. Naik, Advocate for the Applicant.

Mr. S.N. Sardessai, Public Prosecutor for the State/Respondent.

CORAM : N.A. BRITTO, J.

DATE : 18TH JUNE, 2004.

P.C.:

The accused who was denied bail by the learned Sessions Judge, vide his Order dated 9.1.2004 has now approached this court for bail.

The case of the accused is that he is being charged by the Court of Sessions under section 302 I.P.C. and he is awaiting the framing of charge. The incident leading to the death of the deceased Johny D'Souza is said to have taken place on 22.12.03 at 19.00 hours and the said Johny D'Souza died

subsequently on 24.12.03. The post mortem report shows that the said Johny had 4 lacerations and 4 bruises/abrasions. The incident appears to have taken place on the spur of the moment. The only statement recorded,is of one Shankar who was a beggar,shows that the accused came near the Church of Immaculate Conception at Panaji on the above date and time and started demanding money from the said Johny and by this time the said Johny pulled up a stick from the said beggar and hit the accused two or three times on his back and then the accused snatched the stick from the said Johny and assaulted the said Johny on his head and body, as a result of which the said Johny fell down on the ground with bleeding injuries.

Considering the nature of the incident it does not appear that the case is one which will invite extreme penalty. It has also been

submitted that while the accused was in custody he had been suffering from arthritis and had to be admitted in hospital. The case papers produced on behalf of the accused will show that the accused was first admitted on 27.12.03 and was discharged on 29.12.03 with history of hypertension and CVA. The said case paper also shows that the accused was again admitted on 19.5.04 and discharged on 26.5.04. He was admitted with old C.V.A. and unstable angina.

Considering the nature of the offence alleged against the accused, the evidence in support of the same as well as the health conditions of the accused, in my opinion, this could be a fit case to admit the accused to bail. Consequently the accused shall be released on bail upon execution of a Bond of Rs.15,000/- with one surety in the like amount to the satisfaction of the learned Sessions Judge, before

whom the case of the accused is pending.

N.A. BRITTO, J.

sl.